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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,809	03/20/2001	Thomas D. Petite	81607-1042	1207

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Daniel R. McClure
Thomas, Kayden, Horstemeyer & Risley
100 Galleria Parkway, N.W., #1500
Atlanta, GA 30339-5948

EXAMINER

NGHIEM, MICHAEL P

ART UNIT

PAPER NUMBER

2863

DATE MAILED: 05/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant(s)

09/812,809

Examiner

Michael P Nghiem

Applicant(s)

PETITE, THOMAS D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 14-18 have been renumbered 12-16.

2. Renumbered claim 12 is objected to because of the following informalities:

- line 4, after "central system", "." should be replaced with -- ; --.

Appropriate correction is required.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321¹ may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. US 6,028,522 (Petite). Although the conflicting claims are not identical, they are not patentably distinct from each other because even though Petite does not claim a communication network, it would have been obvious to one of ordinary skill in the art to rearrange the telecommunications interface between the central processing unit and the light sensors in order to create a network for the purpose of communication between the light sensors and the central processing unit.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Cerami et al. (US 5,471,201).

Cerami et al. discloses all the claimed features of the invention including:

- a system (1) to monitor the level of light in an area (Fig. 1) comprising:
 - at least one sensor (6) that measures the level of light in a lighted area (Fig. 1);
 - at least one transceiver (transceivers of radio link, column 4, lines 38-40) that communicates information regarding the level of light in the lighted area, via a communications network (Fig. 1);
 - a central system (8) that communicates with the transceiver via the communications network (Fig. 1); and a network (interface to 8) that allows access to the central system (Fig. 1);
 - the lighted area is one selected from the group consisting of a parking structure, a building, a residence, an underground facility, and a street (column 1, lines 16-17);
 - a sensor is one selected from a group consisting of a light sensor, and a camera sensor (light sensor 6);
 - the central system comprises of a memory and a processor (computer of 8, Fig. 1);
 - the communications network comprises of a Public Service Telephone Network (column 5, line 30);

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- the communication network communicates with another communication network via a gateway (two branches of networks are separated by nodes, Fig. 1);
- a central processing unit and a memory communicates with the sensor and the transceiver (Fig. 1);
- the transceiver communicates information with a transceiver (radio transceiver of 8) in another lighted area, wherein the communication between the transceivers form an RF cloud (radio link);
- a person who is a technician or a customer, can access the central system (computer of 8 can be accessed by a human);
- the network is the Internet (remote monitoring system comprising electronic network, column 1, lines 21-23);
- the RF cloud forms a backbone that allows a transceiver in a remote lighted area to communicate with the central system via the communications network (Fig. 1);
- a first logic, the first logic sensing the level of light in a lighted area (via 6);
- a second logic, the second logic communicating the level of light in the lighted area, via a communications network, to a central system (via radio link);
- a third logic, the third logic accessing the central system via a network (1).

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nghiem whose telephone number is (703)

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306-3445. The examiner can normally be reached on M-H from 6:30AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached at (703) 308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



MICHAEL NGHIEM
PRIMARY EXAMINER
Michael Nghiem

May 7, 2003